Testimony of

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Mr. Chairman, Ranking Member Watt, and members of the Subcommittee, thank you for the opportunity to testify this morning before the Subcommittee regarding the *Satellite Television Laws in Title 17*. My name is Jim Campbell, Regional Vice President Public Policy for CenturyLink. As a relatively new entrant in the video arena, CenturyLink hopes to bring a unique, consumer-focused perspective to the Subcommittee on the fast evolving video market in which today's Satellite Television Extension and Localism Act (STELA) operates. I will address its context in the larger pay TV market, and the importance of enacting reauthorization legislation that addresses the disparities between today's video market and a Cable Act that was enacted under far different market and technological conditions.

On the issue of access to content, which for many who are following this proceeding today is a key topic, CenturyLink like others, does not seek to avoid paying reasonable rates for its broadcast content, but we do seek fair retransmission consent rules that will not be leveraged against consumers and competitive new entrants. This can be achieved by modernizing the existing regulatory structure to permit us to carry national programming from an alternative market during negotiation breakdowns.

<u>CenturyLink background and entry into the video market</u>

By way of background, CenturyLink is the third largest telecommunications company in the United States, offering advanced communications services to over 14 million homes; federal state and local governments; as well as businesses in all 50 states and select international markets. Services include voice, broadband, video entertainment and data services. In addition, we provide fiber backhaul and managed cybersercurity solutions. We offer cloud computing on a global basis as a result of our acquisition of Savvis, Inc., one of the largest cloud computing and hosting companies in the world. Today we are a global communications company that has evolved from a long and successful history of providing telephone service, which provides a variety of services including our more recent entry into the video services market.

Over the past five years, CenturyLink has significantly ramped up its entry into the competitive video market, launching its fully digital IPTV service in twelve markets, including Las Vegas, Phoenix, Orlando, Colorado Springs, Omaha, Tallahassee and central North Carolina. The service delivers high-quality video content, a broad range of on-demand content, and advanced technology and interactive features over a managed two-way IP network, bringing an additional competitive video option to over 1.5 million homes. In fact, we are generally the only facilities-based competitor to the local cable provider in markets we enter. Our company's unique and expansive network footprint provides great potential for our video product to reach a variety of rural and urban markets of all sizes.

Consumers benefit from robust competition. Better service, investment, innovation, and lower prices always result when one or more providers compete for customers. That is true in the video market as well. Unfortunately, while we have seen some slowdown in cable price increases from the incumbent operator in the markets where CenturyLink has launched our competitive service, true competitive pricing has not yet been realized.

Additionally, federal and state policymakers recognize that broadband deployment and cable competition are related and that broadband speeds and adoption increase significantly when it is offered along with video services, which is a benefit to consumers. Ninety percent of our new TV customers also purchase high speed Internet, which resonates well for those who prefer over-the-top streaming video alternatives. From a pure consumer choice standpoint, at least 50 percent of our new IPTV customers are new customers to CenturyLink.

In our IPTV markets, CenturyLink offers broadband speeds ranging from 25 to 40 megabits per second, and in Omaha, where we have launched full gigabit service, those customers are enjoying our video product using incredible speeds over our gigabit network.

The 1992 Cable Act, retransmission consent and changed circumstances

The underlying federal rules that govern cable, satellite and IPTV providers' efforts to obtain broadcast content were largely motivated by Congress' concern in 1992 that local broadcasting was at risk from potential market power abuses by incumbent cable companies who dominated the marketplace at that time. As a result, federal policymakers have deliberately enhanced the broadcasters' position vis-à-vis pay television providers with several key provisions:

- Under the must-carry rules, any local broadcaster can demand that its local feed be featured in the cable television provider's line-up, even if there is minimal demand from viewers.
- Under the FCC rules, a pay television provider that seeks to provide its customers with the content found on local broadcast stations (and that has not already been compelled to carry those stations under the must-carry rules) effectively has no other option for obtaining such content.
- Congress added a requirement that retransmission consent negotiations be conducted in good faith as part of prior revisions to the satellite compulsory license act.

However, the FCC's interpretation and application of that requirement has all but rendered it meaningless, adding significant *de facto* power to the broadcaster position under the rules, even as consumers have been subjected to signal blackouts with increasing frequency in recent years.

- Ironically, although threatening blackouts on the eve of marquee events like the Super Bowl or the Oscars is a standard tactic for broadcasters, it is actually unlawful under FCC rules for pay television providers to deny viewers access to a signal during "sweeps week," when the pressure is greatest on broadcasters to show good ratings to their advertising clients.

These provisions were added to the considerable benefit of no-cost spectrum granted by the federal government decades ago to broadcasters, and continually renewed to this day. Unfortunately, the changes made by the 1992 Act did not anticipate the explosion of video competition with traditional cable providers from Direct Broadcast Satellite, other MVPDs, and over the top video providers. DirecTV, DISH, Verizon FiOS, AT&T U-Verse, CenturyLink PRISM™ TV, and more recently, Netflix, Google and Amazon are now all entering markets with the goal of providing consumers alternatives to large incumbent providers.

Twenty-one years later, incumbent cable companies no longer have a monopoly in the video market. Reconciliation of present rules with market realities is needed immediately. While CenturyLink believes that content owners should be reasonably compensated for their content, under the current law, retransmission consent fees are providing windfall profits for the major broadcast networks and owners of multiple broadcast stations rather than a safety net for local stations. These excessive fees eventually hit the wallets of consumers in your districts.

Customers of new entrants become victims of competitive choice

While customers of larger cable and satellite companies are subject to blackouts with increasing frequency, tied carriage and non-negotiable rates create additional competitive hurdles for alternative providers. On the one hand, because we are a relatively new video option in most of the markets we serve, we can ill-afford even a small number of subscriber defections should we lose the right to carry a local station. Yet, given the massive capital investments we have made in order to provide consumers with a competitive alternative, we also cannot simply give in to whatever the broadcasters demand – including not only exorbitant rates but also the tied carriage of additional broadcast and non-broadcast services that are of limited interest to our customers.

While the loss of a signal will severely harm a new entrant and its customers, it will pose little risk to the broadcaster given its ability to continue to make its programming available to other video programming distributors as well as to transmit it for free over the air and the Internet. And the harm does not end there. Broadcasters often take further advantage of their leverage over new entrants by imposing even more onerous terms than those demanded of incumbent providers.

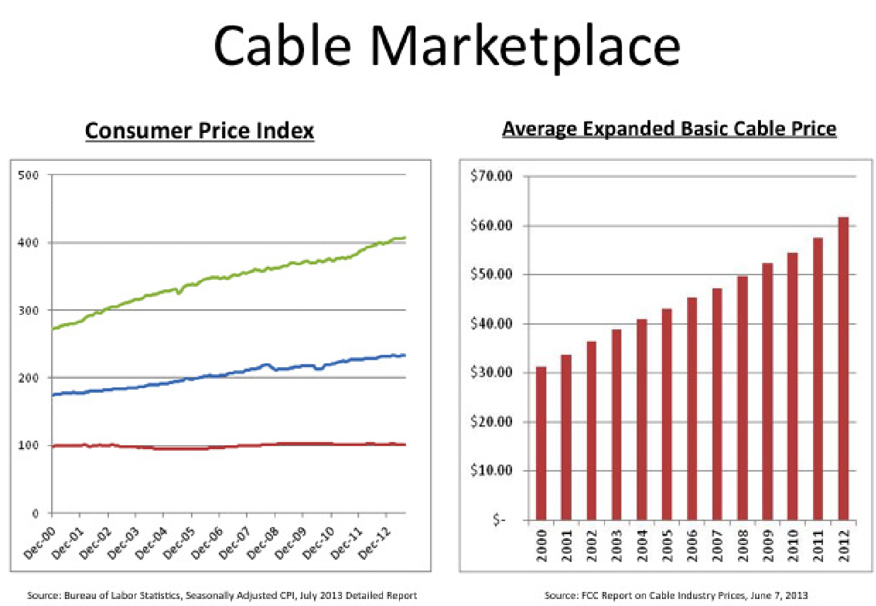
In addition to the direct adverse impact that outdated retransmission consent rules have on the consumers who end up bearing the cost of the broadcasters' demands, they also threaten the consumer benefits of local facilities-based video provider choice such as innovative service and product offerings, differentiated programming, pricing options, and broader deployment of high speed broadband.

The impact on consumers

The recent retransmission consent dispute between Time Warner Cable and CBS has brought into sharp focus the fact that the current retransmission consent regime leaves consumers vulnerable to service disruptions and offers no protection against escalating prices.

And, in fact, it is well established that the cost to MVPDs of obtaining broadcast programming has been and continues to increase exponentially and consumers are feeling the impact through increased prices. SNL Kagan projects retransmission fees paid to broadcasters by video providers could reach a total of $6.1 billion by 2018, up from the $2.4 billion estimated in 2012. During its last round of retransmission negotiations, as mentioned above, CenturyLink experienced this sharp increase in the cost for broadcast content.

In turn, these high content costs have resulted in higher video service prices. For instance, according to the FCC report on Cable Industry Prices released on June 7, 2013, the average monthly price of



expanded basic service[1] for all communities surveyed increased by 4.8% over the 12 months ending January 1, 2012, to $61.63, compared to an annual increase of 2.9% in the Consumer Price Index (CPI). Further, the price of expanded basic service has increased at a compound average annual growth rate of 6.1% over the same period while the CPI compound annual growth rate over the same period was only 2.4%. These increases are simply not sustainable for MVPDs or consumers.

The solution: Modernize the Cable Act to restore a level-negotiating table during retransmission consent negotiations

Congress has an opportunity, as part of the reauthorization of the Satellite Television Extension and Reauthorization Act of 2010, to restore balance to the retransmission consent marketplace.

The significant regulatory advantages that Congress has conferred on the broadcast industry for various reasons, and under various circumstances that no longer exist are not benefitting consumers. The current model clearly needs to be modified. The issue of negotiations and related timing should be addressed immediately. Under the existing legislative regime, local broadcast stations have the right to pull the plug on any video provider when retransmission negotiations hit a standstill, blacking out all nationally distributed programming (CBS, ABC, NBC, FOX,). Moreover, they are bolstered by a regulatory regime that erects barriers that effectively prevent providers from obtaining that programming from a station in another media market. Congress needs to amend the current legislative framework to restore a more level negotiating table.

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[1] The average monthly price of expanded basic service is the combined price of basic service and the most subscribed cable programming service tier excluding taxes, fees and equipment charges.

CenturyLink favors a deregulatory approach under which the 1992 Cable Act would be amended to allow providers the right to carry national programming from an adjacent or alternate market during a broadcast retransmission consent negotiation breakdown. Consumers should not be punished as a result of provider negotiations.

Final thoughts

At the end of the day, this is not about winners and losers. It is about consumers and the future of a truly competitive marketplace. At the current rate of change, the real harm is occurring now for consumers who are required to pay for increases in real dollars. At some point, the model breaks. Local broadcasters are effectively using outdated rules to inhibit consumers from receiving the benefits of program choice and a truly viable, competitive marketplace. Congress can play a significant pro-consumer role by modernizing current retransmission statutes and establishing meaningful guidelines for negotiations and access to adjacent content to prevent blackouts.

Thank you for the opportunity to testify today. We look forward to working with members of the Committee to accomplish legislative reform in the evolving video marketplace. We are confident that rapid and meaningful reform will encourage new entrants like CenturyLink to continue to expand our investments in broadband and digital video services and allow us to provide American consumers with the benefits of innovation and competition.